Zoning Amendment (Rezoning), Variance

BZZ - 499

Date: February 11, 2001

Date Application Deemed Complete: January 11, 2002

End of 60 Day Decision Period: March 12, 2002

Applicant: Julene Lind & Steve Rosch, on behalf of Nicollet Ace Hardware

Address of Property: 3817 & 3821 Nicollet Ave. (address of existing hardware is 3805 Nicollet Ave.)

Contact Person and Phone: Julene Lind & Steve Rosch, 822-3121

Planning Staff and Phone: Jason Wittenberg, 673-2297

Ward: 8 Neighborhood Organization: Kingfield

Existing Zoning: R2B

Proposed Zoning: C2

Zoning Plate Number: 31

Legal Description of Property Proposed for Rezoning: Lots 25 and 26, Block 4, Nicollet Park

Addition to Minneapolis

Proposed Use: Accessory parking lot

Project Name: Nicollet Ace Hardware

Proposed Variance: Variance to reduce the required front yard setback along Nicollet Avenue for the

first 40 ft. from the south to north from 20 ft. to 15 ft. for a proposed accessory parking lot.

Zoning Code Section Authorizing Proposed Variances: 525.520.(1)

Previous Actions: N/A

Concurrent Review: Rezoning and variance as noted above.

Background: The applicants own and operate an existing hardware store located at 3805 Nicollet Avenue. The applicants have purchased two adjacent properties to the south of the hardware store and

intend to remove the dwellings located on the two parcels and construct a 23-space accessory parking lot to serve the hardware store. The two properties that currently contain the dwelling units, located at 3817 and 3821 Nicollet Avenue, are zoned R2B (Two-family District). In order for the parcels to be used for a parking lot accessory to the hardware store, the parcels must be commercially zoned. The applicant requests a rezoning from R2B to C2.

Although there are generally no setback requirements in commercial zoning districts, commercial properties adjacent to residential properties must provide setbacks as indicated in section 548.140(b) of the zoning code. In this case, should the rezoning be approved, the proposed parking lot would be required to maintain a side yard of at least five feet from the south lot line adjacent to the residence district and a front yard setback of 20 feet for the first 40 feet from the residence district to the south. The applicants request a variance to reduce this required front yard setback from 20 feet to 15 feet. Should the rezoning be approved and the parking lot constructed, the parking lot must be landscaped and screened as indicated in section 541.360 of the zoning code.

The applicants propose to close two existing curb cuts and create a new curb cut to the proposed parking lot. The alley is approximately eight feet higher in grade than Nicollet Avenue.

There are four dwelling units located above the existing hardware store.

Findings As Required By The Minneapolis Zoning Code for the Rezoning Application:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

Nicollet Avenue, south of Lake Street is designated as a Community Corridor. According to the *Minneapolis Plan* (page 1.4.30), "Community Corridors are locations that support new residential development at medium density and increased housing diversity in our neighborhoods. They support limited commercial uses, which are measured against their impacts on residential character such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented toward the pedestrian experience. The streets, which form the spine of the community corridors, carry fairly high volumes of traffic, but must balance vehicular travel against residential quality of life. These streets are also important identifiers and travel routes for neighborhood residents and pass through traffic."

The intersection of Nicollet Avenue and 38th Street is designated as a Neighborhood Commercial Node. According to the *Minneapolis Plan* (page 1.4.32), "These areas are typically comprised of a handful of small and medium sized businesses focussed around one intersection that primarily serves the needs of the immediate surrounding area, although they may well also contain specialty stores that serve a regional client base."

Planning staff has identified the following goals and policies of the Minneapolis Plan as being relevant to the request to rezone the property from R2B to C2.

Relevant policy: 4.2 Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.

Relevant Implementation Steps:

- Strengthen the residential character of Community Corridors by developing appropriate housing types that represent variety and a range of affordability levels.
- Promote more intensive residential development along these corridors where appropriate.
- Discourage the conversion of existing residential uses to commercial uses, but encourage the development of mixed use residential dwelling units in commercial buildings where appropriate.
- Support the continued presence of small scale retail sales and commercial services along Community Corridors.
- Ensure that commercial uses do not negatively impact nearby residential areas.

Staff comment: The rezoning would allow for C2 commercial uses to be constructed on the property or for the property to be used for parking accessory to a commercial use. This runs counter to several of the implementation steps noted above.

Relevant Policy: 4.5 Minneapolis will identify Neighborhood Commercial Nodes that provide a shopping environment of small scale retail sales and services compatible with adjacent residential areas.

Relevant Implementation Steps:

- Support the continued presence of small scale retail sales and commercial services in Neighborhood Commercial Nodes.
- Restrict auto-oriented, industrial or manufacturing activities that generate significant vehicular traffic, noise or air-borne impacts on residential neighbors.
- Promote medium density residential development around Neighborhood Commercial Nodes.
- Limit the territorial expansion of Neighborhood Commercial Nodes, but encourage rehabilitation and reinvestment in existing buildings.
- Ensure that commercial uses do not negatively impact nearby residential areas.
- Develop parking facilities and management strategies that balance the following goals:
 improved customer access, protection of sidewalk traffic, reduced visual impacts, mitigated impacts on neighboring uses and shared use of parking facilities.

Staff comment: The rezoning would expand the Neighborhood Commercial Node, contrary to the intent of limiting nodes to the area around particular intersections. Further, the C2 District allows uses that often generate significant impacts on adjacent residential properties.

Relevant Policy: 9.24 Minneapolis will support continued growth in designated commercial areas, while allowing for market conditions to significantly influence the viability of commercial presence in undesignated areas of the city.

Relevant Implementation Steps:

• Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

Staff comment: It is not clear that the rezoning accomplishes the above policy.

Relevant Policy: 9.27 (See policy 4.2)

Relevant Policy: 9.29 (See policy 4.5)

A plan entitled Nicollet Avenue: The Revitalization of Minneapolis' Main Street, is also relevant to the proposal.

The following strategies are identified in the plan:

Strategy #1: Invest in well-defined commercial nodes and corridors to encourage increased compatibility of adjacent uses.

Strategy #2: Redevelop under-utilized commercial areas to encourage increased compatibility of adjacent uses.

Strategy #3: Encourage quality urban design and pedestrian-friendly environments.

Strategy #4: Manage traffic flow and reduce traffic speed.

Relevant text from the plan includes the following:

- Page 15 makes reference "excess commercial land in the city."
- 38th and Nicollet is identified as an "Investment Area." The plan states that Investment "refers to the dedication of public dollars (including neighborhood funds) to assist in creating a place with an identity and concentrating commercial uses. Investment may include funds for business attraction, business development and improvement, and public realm improvements such as roadway reconstruction and streetscape improvements." Page 16 indicates that the Investment Areas were chosen "because they have an existing level of commercial activity and an established or 'latent' identity that can support and be enhanced by increased density, activity, and public realm improvements."
- Recommendation 2.9 (page 22) states: "Preserve the existing housing stock."
- Page 43 makes reference to Nicollet Ace Hardware, stating that, "Several years ago the Nicollet Lanes Bowling alley was converted to a very nicely managed Ace Hardware which serves as a neighborhood gathering spot."

- Recommendation 7.7 (page 45) states: "Support and invest in commercial development at 38th Street to encourage emerging ethnic businesses in the area. Promote façade and signage improvements at the intersection."
- 2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

The request to rezone the two parcels in question appears to be solely in the interest of a single-property owner. In this case, the request is based on a desire to provide off-street parking for a single use.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The immediate area includes a mix of uses and includes R1A, R2B, C1 and C2 zoning. A single-family dwelling zoned R2B is immediately adjacent to the south of the parcels proposed for rezoning. Single- and two-family dwellings with R1A zoning are located across the alley to the east. A nonconforming 18-unit residential building and single-family dwellings zoned R2B are located across Nicollet Avenue to the west.

The purpose of the C2 District—the proposed zoning district—is indicated in section 548.260 of the zoning code, as follows:

548.260. Purpose. The C2 Neighborhood Corridor Commercial District is established to provide an environment of retail sales and commercial services that are larger in scale than allowed in the C1 District and to allow a broader range of automobile related uses. In addition to commercial uses, residential uses, institutional and public uses, parking facilities, limited production and processing and public services and utilities are allowed.

The C2 District is not as compatible with residential properties as the C1 District. The proposed zoning district would essentially move the C2 zoning district two parcels to the south of the existing boundary. Uses allowed (either permitted or conditional) that are not allowed in the C1 District include automobile convenience facilities, currency exchanges, secondhand goods stores, small engine repair, minor automobile repair, and drycleaning establishments. Of course, the existing R2B District does not allow these commercial uses. Most C2 Districts along the Nicollet Avenue Community Corridor are limited to corner properties that are not immediately adjacent to residential uses and districts. Staff does not believe that allowing the C2 District to encroach further into the residential area is compatible with the surrounding residential uses.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

There are reasonable uses for the property under the existing zoning classification. The properties in question could continue to be used for residential purposes.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

Staff is not aware of a change in the character of trend of development in the general area since the property was placed in the R2B District.

Findings Required by the Minneapolis Zoning Code for the Proposed Variance:

1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

The variance request appears to be based solely on the desire to accommodate two more parking spaces than would be accommodated if the proposed parking lot were constructed with a 20 foot front setback. Constructing a 21 space parking lot instead of a 23 space parking lot is a reasonable alternative for the applicant.

The circumstances are unique to the parcel of land for which the variance is sought and
have not been created by any persons presently having an interest in the property.
 Economic considerations alone shall not constitute an undue hardship if reasonable use for
the property exists under the terms of the ordinance.

No unique factor associated with the parcel has been identified that would prevent the applicant from complying with the required 20 foot setback. The request appears to be based on the desire to accommodate two additional parking spaces.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

The intent of the ordinance is to maintain a front yard consistent with the front yard established by adjacent residential parcels. The adjacent residence appears to maintain a setback of approximately 20 feet from the front lot line. In spite of the fact that the applicant proposes to landscape and screen the area south and west of the proposed parking lot (including preserving

existing trees), as is required by 541.360 of the zoning code, it is not clear that allowing vehicles to park within the 20 foot setback area would be consistent with the intent of the ordinance.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Granting the proposed variance would not increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Recommendation Of The City Planning Department for the Rezoning Application:

The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and <u>deny</u> the application to rezone the property at 3817 and 3821 Nicollet Avenue from R2B to C2.

Recommendation of the City Planning Department for the Variance Application:

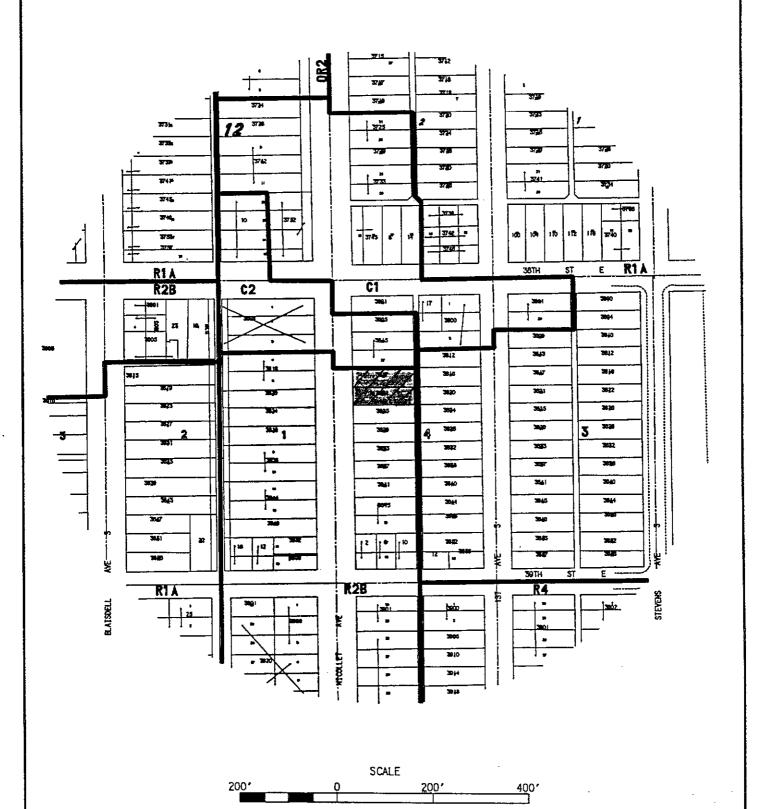
The City Planning Department recommends that the City Planning Commission adopt the findings above and <u>deny</u> the variance to reduce the required front yard setback from 20 feet to 15 feet for an accessory parking lot at 3817 and 3821 Nicollet Avenue.

Nicollet Hardware		612-822-3121
APPLICANT'S NAME APPLICANT'S NAME APPLICANT'S NAME	, MN 55409	TELEPHONE
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PRESENT PROPOSED	APPEAL FOR VARIATION	BOARD ACTION
ZONING ZONING		

3805 Nicollet Ave. S., Mpls., MN 55409

TELEPHONE

ADDRESS



PROPERTY ADDRESS

3817 Nicollet Ave. 3821 Nicollet Ave. FILE NUMBER **BZZ-499**

AND PLUMBING

38th & Nicollet / Minneapolis / (612) 822-3121 / Fax: (612) 822-4874

Minneapolis Planning Commission 250 South 4th Street

January 10, 2002

To The Minneapolis planning Commission,

ulene Jino

On January 9th 2002 we attended the Kingfield Neighborhood Board Meeting. The zoning committee chair, Don Lauffenberger recommended the-requested zoning change for the 3817 and 3821 properties from R2B to C2. The Kingfield Neighborhood board voted to accept the zoning change.

A letter from the board will be sent. - Included.

Council Member Dan Niziolek 10th ward attended the meeting and was present for the vote.

Sincerely

Julene Lind President

A N D P L U M B I N G

38th & Nicollet / Minneapolis / (612) 822-3121 / Fax: (612) 822-4874

FINDINGS

Minneapolis Planning Commission 250 South 4th Street Minneapolis MN 55415

January 10, 2002

To The Minneapolis planning Commission,

We are Appling for a 5-foot setback variance for the rezoning project at 3817-3821:

In order to accommodate the required 23 parking stalls we need an additional 5 feet. The property shape requires a set back variance. (1and 2)

The difficulty is caused by the physical size of the property. (3)

The Variance will not affect property values or alter character. (4)

The proposed variance will decrease congestion on the public street. (5)

Sincerely, Julene Find

Julene Lind President January 8, 2002

Good evening,

Thank-you for making time to meet with me.

Steve and I have worked and owned Nicollet hardware since 1983. We have lived in so Mpls. For almost 25 yrs.

We have supported the neighborhood through many changes and in many ways.

We completed our first expansion in 1996 with a great design result.

We are finalists for The MPLS QUE award. An award given for urban excellence.

When other small businesses have lost out to corporate competition we have succeeded. We have responded to the needs of our community and improved.

Intuitive conservative planning and vision have allowed us to remain a competitive convenient Neighborhood hardware store.

We love this business we enjoy this community.

Now we must plan for the proposed future changes to our neighborhood Nicollet reopening at Lake Street will bring more traffic on Nicollet A new 35W ramp at 38th street probably will eliminate parking on 38th The streetscape redesign will initially be brutal to business

These proposed changes, the safety and convenience for our customers has required us to explore all possibilities for off street parking.

Consider this: You are on your way home from errands, you have kids with, One in a car seat. You want to stop and pick up a gallon of paint at *Your neighborhood hardware store*. You can only Parallel Park across the busy street. Now add snow!!! You must climb the mountain with a car seat And holding another child's hand and return with a gallon of paint. This is a huge burden for even the most loyal customer.

Picking up a rented rototiller is a challenge parked the wrong way on Nicollet.

If you have any type of physical handicap even a temporary one such as a broken ankle parking and shopping at Nicollet Ave hardware becomes difficult at best.

This is **our** neighborhood, these are **our** customers. People shop at the hardware store on the way to work or from work. Families stop on the way home from daycare, or the library, or after they get groceries or pick-up drycleaning. They drive and want a safe and convenient place to park.

People'comment often in the store on the impossible parking situation.

We are doing business in 2002 in a business district built in 1924. Everyone drives and many homes have multiple cars.

For your shopping convenience we are requesting a rezoning for the two properties to the south of us from R2b to C2. We then will be able to proceed with our plans for parking and loading area.

We have included a large patio in this area for neighborhood gatherings and events. We are keeping the two front large mature trees in our landscape plan.

Please support our request.

Sincerely

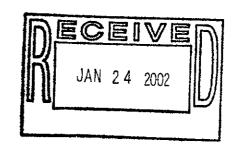
Julene Lind & Steve Rosch

A N D P L U M B I N G

38th & Nicollet / Minneapolis / (612) 822-3121 / Fax: (612) 822-4874

January 19, 2002

Council Member Robert Lilligren Minneapolis City Council 307 City Hall Minneapolis, Minnesota 55415



Dear Council Member Lilligren,

It was great to see you at the January 9^{th} KFNA board meeting where our rezoning proposal was approved. As you know, we are very excited about this project and would like to thank-you for both your support and your guidance on the rezoning process. It really means a lot to us.

We understand that you have received letters of support for the project from both Don Laufenburger, the KFNA zoning committee chair, and from the full KFNA board. We would appreciate it if you could also provide a letter in support of our project to be included in the rezoning application packet. We have been recently assigned a city planner and our application for the rezoning has been deemed to be complete with a planning commission hearing set for February 11th.

We do know the fate of the houses on the site are a concern for some in the neighborhood. When we first started planning this project we looked into donating the houses to an entity with the expertise and wherewithal to be able to move them for a charitable purpose. When we contacted Ed Murphy, the director of St. Stephens Shelter, and offered to donate the houses he told us that it was too expensive to make the donation work for them and declined the offer. We also contacted Ryan Karis, at Habitat for Humanity with the same offer and he said that, while he would check into the possibility, donated houses had not been successful projects for them in the past.

Frankly, based on our understanding of the financial realities associated with moving the houses (moving costs, asbestos removal or abatement; finding and purchasing a lot, building a foundation and bringing the house up to code) we were not surprised to hear that it was just too prohibitively expensive to make economic sense.

However, we are still interested in donating the houses for a move if someone has a viable plan and it is possible to do so within our very tight time frame. To that end, we are working with our attorney to draft up some criteria. We stand prepared to consider any reasonable offer to move the houses that can be incorporated into our construction/financing schedule and be of no cost to us. The houses must be removed from the site by March 31 of this year.

Because of the necessity to have our project completed in time for our biggest sales months (May and June) it is important that this project moves ahead according to the City planning timeline.

For that reason we must put a deadline of February 28th, 2002 for consideration of any offers to move the houses off site.

In closing, we want to thank you again for your support and look forward to talking with you further about our exciting project. Please do not hesitate to give us a call with any questions of comments that you may have regarding the project.

Sincerely,

Julene Lind President

cc: David Brauer KFNA

Jason Wittenberg City Planner Dan Niziolek 10th Ward

AND PLUMBING

38th & Nicollet / Minneapolis / (612) 822-3121 / Fax: (612) 822-4874

Minneapolis Planning Commission 250 South 4th Street

January 10, 2002

To The Minneapolis planning Commission,

Sth

We met with Ward council member Robert Lilligren Friday January 4th At the project site 3817 Nicollet. We discussed our project and reviewed the site plan. We informed Robert of our rezoning application at that meeting.

Sincerely Jin O

Julene Lind President January 10, 2002

Robert Lilligren Council Member - 8th Ward Room 307 City Hall 350 So. 5th St. Minneapolis, MN, 55415

Re: Nicollet ACE Hardware 3805 Nicollet Ave. So.

Dear Council Member Lilligren;

The Kingfield Neighborhood Association Board of Directors met on Wednesday, Jan. 9, 2002. Regarding the above property, we recommend:

Approve a zoning change for the two residential lots immediately south of the hardware store to C2 to allow for a parking lot.

Approve front yard setback variance to allow parking for 23 vehicles.

We would like to review the final site plan regarding minor changes before implementation.

If you would like further information as to why we reached this decision, I will be happy to provide. I can be reached at 612-640-2764. Thank you for considering our recommendation.

Sincerely,

Don Laufenburger

Chair, KFNA Zoning and Variance Committee

cc: Julene Lind & Steve Rosch Minneapolis Zoning Department Minneapolis Planning Department David Brauer, KFNA President

Correspondence:

BZZ - 499

1/28/02 - Resident of 3800 block of Nicollet, opposes the rezoning and variance request.



Minneapolis City of Lakes

Office of the City Attorney

Jay M. Heffern City Attorney

333 South 7th Street - Suite 300 Minneapolis MN 55402-2453

Office 612 673-2010

Civil Division Fax 612 673-3362

Criminal Division Fax 612 673-2189

MCDA Fax 612 673-5112

TTY 612 673-2157

Minneapolis City Council Room 307, City Hall 350 South fifth Street Minneapolis, MN 55415

Minneapolis Planning Commission Room 210, City Hall 350 South Fifth Street Minneapolis, MN 55415

RE: Petition for Amendment of the Zoning Ordinance

3817 and 3821 Nicollet Avenue

Nicollet Park Addition to Minneapolis, Block, Lots 25 ad 26

Petition of Julene Lind and Stephen Rosch

Dear Members of the City Council and Planning Commission:

Pursuant to the requirements of the Zoning Code, I certify that the above petition for rezoning complies with the consent requirements of Minnesota Statutes sec. 462.357, subd. 5.

This opinion is for the sole benefit of the Minneapolis City Council and Minneapolis City Planning Commission. Other persons are advised that they must seek their own legal counsel relative to the matters herein discussed.

Very truly yours,

January 15, 2002

CAROL LANSING

Assistant City Attorney

(612) 673-2554

c: David Dacquisto, Zoning Administrator Irene Homo, City Clerk's Office

www.ci.minneapolis.mn.us

Affirmative Action Employer

